IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.40844 of 2005
RAJ NARAIN UPADHYAY & ANR
Versus
STATE OF BIHAR & ANR.
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9. 23.7.2008. Heard Sri Ambuj Nayan Chaubey, the learned counsel for the petitioners, Sri Jharkhandi Upadhyay, the learned A.P.P. for the State and Sri Dinesh Prasad Singh, the learned counsel for O.P. No.2.

The two petitioners have filed this application for quashing of Complaint Case No.540(C) of 2005 giving rise to Tarari P.S. Case No.27 of 2005 for alleged offences under Sections 498, 494, 511, 406, 379 and 397 I.P.C. on the ground of purported malicious prosecution and abuse of the process of the court.

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It appears that the petitioners, who are parents of 15 year old minor girl, Kumari Priyanka, who while studying in a school at Bombay was forcibly kidnapped by Santosh Kumar Pandey, impleaded herein as O.P. No.2, and was eventually raped for which petitioner no.1 lodged the report before the Ghatkopar Police Station for offences punishable under Sections 363, 366, 376 I.P.C. against O.P. No.2 on 11.3.2004. It further appears that O.P. No.2 after committing the heinous crime is absconding and in course of investigation the allegations against O.P. No.2 was found to be true and in that context the Mumbai Police on 8.8.2005 wrote a letter to the Officer Incharge, Tarari P.S.(Bhojpur) regarding the aforesaid Ghatkopar case with a request to arrest him for the needful at Mumbai as non bailable warrant of arrest was issued against him. It further appears that it was with the intention to save his own skin that the

instant complaint case was filed by O.P. No.2 at Ara and the same on being forwarded to the concerned police station Tarari P.S. Case No.27 of 2005 came to be registered.

It is submitted on behalf of the petitioners that the institution of Tarari P.S. Case against the petitioners is not only vindictive but an abuse of the process of the court and the real culprit having committed the heinous crime has now in turn resorted to prosecuting the parents of the victim girl so as to cover up his own crime.

No relevant submissions or faulty submissions on behalf of O.P. No.2 have been advanced in an effort to save his own skin. Relevant documents showing the steps taken by the Mumbai Court as also the efforts of the police of Mumbai have been annexed. The facts and the circumstances of the case only goes to show that the intended prosecution of the petitioners was not only arbitrary, unfair, unjust and malicious but an attempt to lower the esteem of the petitioners.

In the facts and the circumstances of the case, this application is allowed and the prosecution of the petitioners is hereby quashed.

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(Abhijit Sinha,J)

P.S.